

December 14, 2010

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE MANUELES-DOLORES, a/k/a
Jose Rosales,

Defendant - Appellant.

No. 10-1512
(D.C. No. 1:10-CR-00001-WYD-1)
(D. Colo.)

ORDER

Before **TACHA, HARTZ**, and **HOLMES**, Circuit Judges.

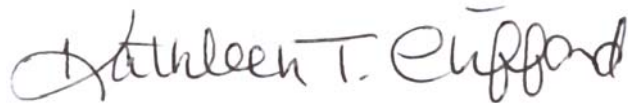
Defendant Jose Manueles-Delores appeals the judgment entered on June 25, 2010 by the district court in his criminal case.

Under Fed. R. App. P. 4(b)(1)(A)(i), the fourteen-day deadline for filing a notice of appeal in this criminal case expired on July 9, 2010. Defendant filed a notice of appeal on November 5, 2010, which was approximately four months after the fourteen-day filing deadline. Although non-compliance with the time limit in Rule 4(b)(1)(A) is not considered jurisdictional, the United States has properly raised the timeliness issue by filing a motion to dismiss and by requesting dismissal of this appeal. “[T]he time bar in Rule 4(b) must be enforced by this court when properly invoked by the government.” *United States v. Mitchell*,

518 F.3d 740, 744 (10th Cir. 2008) (quoting *United States v. Garduno*, 506 F.3d 1287, 1290-91 (10th Cir.2007)). In response, Defendant concedes that the motion to dismiss should be granted.

Accordingly, the United States' motion to dismiss is **GRANTED**. The appeal is **DISMISSED**.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, reading "Kathleen T. Clifford". The signature is written in a cursive, flowing style with a large initial 'K'.

Kathleen T. Clifford
Attorney - Deputy Clerk